

RECORD OF PROCEEDINGS  
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

FEB 12 1999

IN THE MATTER OF:

DOCKET NUMBER: 96-03330

[REDACTED]  
[REDACTED]  
COUNSEL: NONE

HEARING DESIRED: NO

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APPLICANT REQUESTS THAT:

His undesirable discharge be upgraded to general.

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APPLICANT CONTENDS THAT:

After having been out drinking one night, he went to his room and lay down on his bunk. It was during this time, that he realized that an officer (lieutenant) was performing oral sex on him. He then put him out of his room. Later the Office of Special Investigations (OSI) interviewed him and the officer, at which time the officer admitted that he had sex with him. As a result, he was court-martialed and discharged from the service.

Since that time, he has led a very straightforward life, and he is well-respected by his peers in the community in which he lives.

In support of his appeal, the applicant provided copies of his DD Form 214 and discharge certificate, and several supportive statements.

Applicant's complete submission is at Exhibit A.

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STATEMENT OF FACTS:

Applicant's military personnel records were not available. Therefore, the facts surrounding the applicant's separation from the Air Force cannot be verified.

Documentation provided by the applicant reflects that, on 20 Mar 56, he was discharged under the provisions of AFR 35-66 with an undesirable discharge.

Pursuant to the Board's request, the Federal Bureau of Investigation (FBI), Washington, D.C., provided an investigative report which is attached at Exhibit B.

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AIR FORCE EVALUATION:

The Programs and Procedures Branch, AFPC/DPPRP, reviewed this application and indicated that, in the absence of available records, they could not make a recommendation on this application (Exhibit C).

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APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

A copy of the Air Force evaluation was forwarded to applicant on 17 Feb 97 for review and response. As of this date, no response has been received by this office (Exhibit D).

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THE BOARD CONCLUDES THAT:

1. The applicant has exhausted all remedies provided by existing law or regulations.
  2. The application was not timely filed; however, it is in the interest of justice to excuse the failure to timely file.
  3. Sufficient relevant evidence has been presented to demonstrate the existence of probable injustice. No evidence has been presented which would lead us to believe that the applicant's discharge was improper or contrary to the directive under which it was effected. Nevertheless, in view of the passage of time and the post-service documentation provided by the applicant, we believe the continued stigma of an undesirable discharge is unduly harsh and no longer serves any useful purpose. Therefore, we are of the opinion that upgrading the applicant's discharge to general, based on clemency, would be appropriate. Accordingly, we recommend that the applicant's undesirable discharge be upgraded to general.
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THE BOARD RECOMMENDS THAT:

The pertinent military records of the Department of the Air Force relating to APPLICANT, be corrected to show that on 20 Mar 56, he

was discharged with service characterized as general (under honorable conditions).

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The following members of the Board considered this application in Executive Session on 3 Nov 98, under the provisions of AFI 36-2603:

Ms. Rita S. Looney, Panel Chair  
Mr. Steven A. Shaw, Member  
Mr. Patrick R. Wheeler, Member

All members voted to correct the records, as recommended. The following documentary evidence was considered:

Exhibit A. DD Form 149, dated 6 Nov 96, w/atchs.  
Exhibit B. FBI Report.  
Exhibit C. Letter, AFPC/DPPRP, dated 3 Feb 97.  
Exhibit D. Letter, SAF/MIBR, dated 17 Feb 97.

  
RITA S. LOONEY  
Panel Chair



DEPARTMENT OF THE AIR FORCE  
WASHINGTON, DC

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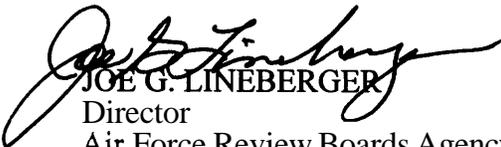
Office of the Assistant Secretary

AFBCMR 96-03330

MEMORANDUM FOR THE CHIEF OF STAFF

Having received and considered the recommendation of the Air Force Board for Correction of Military Records and under the authority of Section 1552, Title 10, United States Code (70A Stat 116), it is directed that:

The pertinent military records of the Department of the Air Force relating to [REDACTED] be corrected to show that on 20 Mar 56, he was discharged with service characterized as general (under honorable conditions).

  
JOE G. LINEBERGER  
Director  
Air Force Review Boards Agency